

**ASSEMBLY BILL**

**No. 2029**

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**Introduced by Assembly Member Ammiano**

February 23, 2012

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An act to add Article 5.5 (commencing with Section 1299) to Chapter 1 of Title 10 of Part 2 of the Penal Code, relating to bail.

LEGISLATIVE COUNSEL'S DIGEST

AB 2029, as introduced, Ammiano. Bail Fugitive Recovery Persons Act.

(1) Existing law regulating the issuance of bail bonds requires any person advertising or engaging in the business of executing, delivering, or furnishing bail bonds to hold a bail agent's license, a bail permittee's license, or a bail solicitor's license, as specified, issued by the Insurance Commissioner.

This bill would provide for the regulation of bail fugitive recovery persons, defined as a person given written authorization by the bail or depositor of bail and contracted to investigate, surveil, locate, and arrest a bail fugitive and any person employed to assist the bail or depositor of bail to investigate, surveil, locate, and arrest a bail fugitive. This bill would require that bail fugitive recovery persons be at least 18 years of age and complete 12 hours of classroom education pertinent to the duties and responsibilities of a bail licensee and a course of training in the exercise of the power of arrest, as specified.

This bill would require that a person authorized to apprehend a bail fugitive notify local law enforcement of his or her intent to apprehend a bail fugitive no more than 6 hours prior to attempting to apprehend a bail fugitive, except as specified. The bill would require any person

authorized to apprehend a bail fugitive to carry a certification of completion of required courses and training programs.

Because this bill states that any person who is not in compliance with, or who violates, these provisions is guilty of a misdemeanor, punishable as specified, this bill would create a new crime, thereby imposing a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Article 5.5 (commencing with Section 1299) is  
2 added to Chapter 1 of Title 10 of Part 2 of the Penal Code, to read:

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4 Article 5.5. Bail Fugitive Recovery Persons Act

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6 1299. This article shall be known as the Bail Fugitive Recovery  
7 Persons Act.

8 1299.01. For purposes of this article, the following terms shall  
9 have the following meanings:

10 (a) "Bail fugitive" means a defendant in a pending criminal case  
11 who has been released from custody under a financially secured  
12 appearance, cash, or other bond and has had that bond declared  
13 forfeited, or a defendant in a pending criminal case who has  
14 violated a bond condition whereby apprehension and  
15 reincarceration are permitted.

16 (b) "Bail" means a person licensed by the Department of  
17 Insurance pursuant to Section 1800 of the Insurance Code.

18 (c) "Depositor of bail" means a person who or entity that has  
19 deposited money or bonds to secure the release of a person charged  
20 with a crime or offense.

21 (d) "Bail fugitive recovery person" means a person who is  
22 provided written authorization pursuant to Sections 1300 and 1301  
23 by the bail or depositor of bail, and is contracted to investigate,  
24 surveil, locate, and arrest a bail fugitive for surrender to the

1 appropriate court, jail, or police department, and any person who  
2 is employed to assist a bail or depositor of bail to investigate,  
3 surveil, locate, and arrest a bail fugitive for surrender to the  
4 appropriate court, jail, or police department.

5 1299.02. (a) No person, other than a certified law enforcement  
6 officer, shall be authorized to apprehend, detain, or arrest a bail  
7 fugitive unless that person meets one of the following conditions:

8 (1) Is a bail as defined in subdivision (b) of Section 1299.01 or  
9 a depositor of bail as defined in subdivision (c) of Section 1299.01.

10 (2) Is a bail fugitive recovery person as defined in subdivision  
11 (d) of Section 1299.01.

12 (3) Holds a bail license issued by a state other than California  
13 or is authorized by another state to transact and post bail and is in  
14 compliance with the provisions of Section 847.5 with respect to  
15 the arrest of a bail fugitive.

16 (4) Is licensed as a private investigator as provided in Chapter  
17 11.3 (commencing with Section 7512) of Division 3 of the Business  
18 and Professions Code.

19 (5) Holds a private investigator license issued by another state,  
20 is authorized by the bail or depositor of bail to apprehend a bail  
21 fugitive, and is in compliance with the provisions of Section 847.5  
22 with respect to the arrest of a bail fugitive.

23 (b) This article shall not prohibit an arrest pursuant to Sections  
24 837, 838, and 839.

25 1299.04. (a) A bail fugitive recovery person, a bail agent, bail  
26 permittee, or bail solicitor who contracts his or her services to  
27 another bail agent or surety as a bail fugitive recovery person for  
28 the purposes specified in subdivision (d) of Section 1299.01, and  
29 any bail agent, bail permittee, or bail solicitor who obtains licensing  
30 after January 1, 2000, and who engages in the arrest of a defendant  
31 pursuant to Section 1301 shall comply with the following  
32 requirements:

33 (1) The person shall be at least 18 years of age.

34 (2) The person shall have completed a 40-hour power of arrest  
35 course certified by the Commission on Peace Officer Standards  
36 and Training pursuant to Section 832. Completion of the course  
37 shall be for educational purposes only and not intended to confer  
38 the power of arrest of a peace officer or public officer, or agent of  
39 any federal, state, or local government, unless the person is so  
40 employed by a governmental agency.

1 (3) The person shall have completed a minimum of 12 hours of  
2 classroom education certified pursuant to Section 1810.7 of the  
3 Insurance Code.

4 (4) The person shall have completed a course of training in the  
5 exercise of the power to arrest offered pursuant to Section 7583.7  
6 of the Business and Professions Code.

7 (5) The person shall not have been convicted of a felony.

8 (b) Upon completion of any course or training program required  
9 by this section, an individual authorized by Section 1299.02 to  
10 apprehend a bail fugitive shall carry certificates of completion  
11 with him or her at all times in the course of performing his or her  
12 duties under this article.

13 1299.05. In performing a bail fugitive apprehension, an  
14 individual authorized by Section 1299.02 to apprehend a bail  
15 fugitive shall comply with all laws applicable to that apprehension.

16 1299.06. Before apprehending a bail fugitive, an individual  
17 authorized by Section 1299.02 to apprehend a bail fugitive shall  
18 have in his or her possession proper documentation of authority  
19 to apprehend issued by the bail or depositor of bail as prescribed  
20 in Sections 1300 and 1301. The authority to apprehend document  
21 shall include all of the following information: the name of the  
22 individual authorized by Section 1299.02 to apprehend a bail  
23 fugitive and any fictitious name, if applicable; the address of the  
24 principal office of the individual authorized by Section 1299.02  
25 to apprehend a bail fugitive; and the name and principal business  
26 address of the bail agency, surety company, or other party  
27 contracting with the individual authorized by Section 1299.02 to  
28 apprehend a bail fugitive.

29 1299.07. (a) An individual authorized by Section 1299.02 to  
30 apprehend a bail fugitive shall not represent himself or herself in  
31 any manner as being a sworn law enforcement officer.

32 (b) An individual authorized by Section 1299.02 to apprehend  
33 a bail fugitive shall not wear any uniform that represents himself  
34 or herself as belonging to any part or department of a federal, state,  
35 or local government. Any uniform shall not display the words  
36 United States, Bureau, Task Force, Federal, or other substantially  
37 similar words that a reasonable person may mistake for a  
38 government agency.

39 (c) An individual authorized by Section 1299.02 to apprehend  
40 a bail fugitive shall not wear or otherwise use a badge that

1 represents himself or herself as belonging to any part or department  
2 of the federal, state, or local government.

3 (d) An individual authorized by Section 1299.02 to apprehend  
4 a bail fugitive shall not use a fictitious name that represents himself  
5 or herself as belonging to any federal, state, or local government.

6 1299.08. (a) Except under exigent circumstances, an individual  
7 authorized by Section 1299.02 to apprehend a bail fugitive shall,  
8 prior to and no more than six hours before attempting to apprehend  
9 the bail fugitive, notify the local police department or sheriff's  
10 department of the intent to apprehend a bail fugitive in that  
11 jurisdiction by doing all of the following:

12 (1) Indicating the name of an individual authorized by Section  
13 1299.02 to apprehend a bail fugitive entering the jurisdiction.

14 (2) Stating the approximate time an individual authorized by  
15 Section 1299.02 to apprehend a bail fugitive will be entering the  
16 jurisdiction and the approximate length of the stay.

17 (3) Stating the name and approximate location of the bail  
18 fugitive.

19 (b) If an exigent circumstance does arise and prior notification  
20 is not given as provided in subdivision (a), an individual authorized  
21 by Section 1299.02 to apprehend a bail fugitive shall notify the  
22 local police department or sheriff's department immediately after  
23 the apprehension, and upon request of the local jurisdiction, shall  
24 submit a detailed explanation of those exigent circumstances within  
25 three working days after the apprehension is made.

26 (c) This section shall not preclude an individual authorized by  
27 Section 1299.02 to apprehend a bail fugitive from making or  
28 attempting to make a lawful arrest of a bail fugitive on bond  
29 pursuant to Section 1300 or 1301. The fact that a bench warrant  
30 is not located or entered into a warrant depository or system shall  
31 not affect a lawful arrest of the bail fugitive.

32 (d) For the purposes of this section, notice may be provided to  
33 a local law enforcement agency by telephone prior to the arrest  
34 or, after the arrest has taken place, if exigent circumstances exist.  
35 In that case the name or operator number of the employee receiving  
36 the notice information shall be obtained and retained by the bail,  
37 depositor of bail, or bail fugitive recovery person.

38 1299.09. (a) An individual authorized by Section 1299.02 to  
39 apprehend a bail fugitive shall not forcibly enter a premises except  
40 as provided for in Section 844.

1 (b) Nothing in subdivision (a) shall be deemed to authorize an  
2 individual authorized by Section 1299.02 to apprehend a bail  
3 fugitive, to apprehend, detain, or arrest any person, except as  
4 otherwise authorized pursuant to Chapter 5 (commencing with  
5 Section 833) of Title 3 of Part 2, or any other provision of law.

6 1299.10. An individual authorized by Section 1299.02 to  
7 apprehend a bail fugitive shall not carry a firearm or other weapon  
8 unless in compliance with the laws of the state.

9 1299.11. Any person who violates this act, or who conspires  
10 with another person to violate this act, or who hires an individual  
11 to apprehend a bail fugitive, knowing that the individual is not  
12 authorized by Section 1299.02 to apprehend a bail fugitive, is  
13 guilty of a misdemeanor punishable by a fine of five thousand  
14 dollars (\$5,000) or by imprisonment in a county jail not to exceed  
15 one year, or by both that imprisonment and fine.

16 1299.12. Nothing in this article is intended to exempt from  
17 licensure persons otherwise required to be licensed as private  
18 investigators pursuant to Chapter 11.3 (commencing with Section  
19 7512) of Division 3 of the Business and Professions Code.

20 SEC. 2. No reimbursement is required by this act pursuant to  
21 Section 6 of Article XIII B of the California Constitution because  
22 the only costs that may be incurred by a local agency or school  
23 district will be incurred because this act creates a new crime or  
24 infraction, eliminates a crime or infraction, or changes the penalty  
25 for a crime or infraction, within the meaning of Section 17556 of  
26 the Government Code, or changes the definition of a crime within  
27 the meaning of Section 6 of Article XIII B of the California  
28 Constitution.